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### REMARKS

The undersigned gratefully acknowledges the Examiner's efforts to date and hereby responds fully to the outstanding office action.

Claims 1-3, 8 and 17 have been amended to better clarify the invention. These amendments are made for clarification purposes, in order to make the claims more readable. These claim amendments are not necessary to overcome the rejections. For example, the amendments to claims 2 and 3 remove redundant language as it has been clarified that the fabric selects one of the plurality of potential consumers for each queue. Furthermore no change in meaning is made by amending "assign" to "select", as this is done for consistency, and without surrender of scope.

Regarding the provisional double patenting rejection in sections 2-3 of the Official Action, we enclose a Terminal Disclaimer to overcome the rejection.

#### Rejection under 35 USC §§ 102(e) and 103(a)

The Examiner has rejected Claims 1-3, 5-20, 22-36, and 38-39 as being anticipated by Richards et al. (US Patent 6,804,698). The Examiner has further rejected Claims 21 and 37 in view of Richards et al. in combination with Burrows (US Patent 5,303,302) and Claim 4 in view of Richards et al. in combination with Bell, Jr. et al. (US Patent 6,606,666). The Applicants respectfully disagree, and make arguments below to highlight the distinction of the present invention over the Richards et al. patent taken alone or in combination with Burrows and/or Bell, Jr. et al.

With reference to the anticipation rejection of claim 1, the Richard patent fails to teach each of the claimed limitations. For ease of reference, claim 1 (as originally included) is reproduced below.

An apparatus for processing data streams comprising:

- at least one producer of properly ordered substreams of a data stream;
- a **plurality** of potential consumers of a data stream; and
- a stream fabric, coupled to the producer and the potential consumers, that operates to receive the substreams from the producer, store the substreams within a stream queue associated with the data stream and output at least a portion of the data within the stream queue to a

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consumer of the stream queue *the consumer being one of the plurality of potential consumers.*  
*(emphasis added).*

Without limiting the generality of the foregoing, the Richards patent simply does not teach a system with a *plurality of potential consumers* and where data within a stream queue is output to a consumer, wherein the selected *consumer being one of the plurality of potential consumers.*

While we do not agree with the assertions made by the patent office in the rejection, it is necessary to reference them in order to present arguments in order to overcome the rejection. According to the patent office rejection (the assertions of which are not admitted), the SAR engine 3 reads on the claimed fabric and the STB 201 is read as a potential consumer. Even if this assertion is true, the Richard teachings still fail to anticipate the claimed invention as, the cited passages, or even the Richard reference generally simply fails to disclose a plurality of potential consumers.

While the amendment to claim 1 is not necessary for this argument to overcome this reference, the amended language certainly makes it clear that the Richards system does not teach a system which selects a consumer from a plurality of potential consumers for each stream.

In any event, claims 2 and 3 are even more clearly not anticipated. Neither the cited passages, nor the Richard reference generally, teaches selecting a consumer from a plurality of potential consumers at all, as there is only one consumer (as admitted), let alone based on reading a consumer attribute for the stream queue (for claim 2) or based on a predetermined criteria (claim 3).

With reference to claim 5, we are not sure how the cited passage is relevant, as it discusses memory management. In any event the cited passage does not teach or suggest the claimed subject matter, and without limiting the generality of the foregoing, does not teach a least burdened potential consumer (as there is only one consumer).

With reference to claims 6 -13, we are not sure how the cited passage is relevant, as it discusses mismatches of VPI/VCI. In any event the cited passage does not teach or suggest the claimed subject matter, and without limiting the generality of the foregoing, does not teach receiving a control signal associated with the stream queue from *the consumer* of the stream queue (or any of the limitations in the subsequent dependent claims).

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With reference to claims 15-16, we are not sure how the cited passage is relevant, as it is clearly describing processing ATM cells (layer 1, see Col 5 lines 29-30). In any event, the cited passage does not teach or suggest the claimed subject matter, and without limiting the generality of the foregoing, does not teach terminating the layer 4 protocol within the received data packets.

With reference to claims 17-24, the cited passages do not teach or suggest the claimed subject matter, and without limiting the generality of the foregoing, do not teach at least one of said plurality of potential consumers is a processing element (claim 17 as amended) or teach where said consumer is a content processing element that operates to receive the data output from the stream queue, process contents of the data received from the stream queue and transmit at least one control signal to the stream fabric in response to the processing of the contents of the data (claim 18). Similarly the other limitations are not taught. The passage relied on for rejecting claim 19 is clearly not applicable.

With reference to claim 25, the cited passage does not teach or suggest the claimed subject matter. The examiner states the STB is read as both a consumer and I/O element. While this may be true, the STB is not a producer of properly ordered substreams of a data stream.

Each subsequent independent claim including Claims 26, 30, 31, 32, and 39 also include such claimed elements. Respectfully, none of such language is shown or fairly suggested by the Richards et al. patent. Accordingly, the rejections to these claims should be withdrawn for similar reasons.

The Examiner has further rejected Claims 21 and 37 in view of Richards et al. in combination with Burrows (US Patent 5,303,302) and Claim 4 in view of Richards et al. in combination with Bell, Jr. et al. (US Patent 6,606,666). The Applicants respectfully disagree, and make arguments below to highlight the distinction of the present invention over the Richards et al. patent taken alone or in combination with Burrows and/or Bell, Jr. et al.

For the Patent Office to combine references in an obviousness analysis, the Patent Office must do two things. First, the Patent Office must articulate a motivation to combine the references, and second, the Patent Office must support the articulated motivation with actual evidence. *In re Dembiczak*, 175 F.3d 994,999 (Fed. Cir. 1999). While the range of sources for the motivation is

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broad, the range of available sources does not diminish the requirement for actual evidence. *Id.* Once the Patent Office has properly combined the references, to establish *prima facie* obviousness, the Patent Office must still show where each and every claim element is shown. MPEP §2143.03.

A review of the Richards et al. patent clearly shows a device in the field of data transfer that includes a segmentation and re-assembly (SAR) function that forms an improvement within a personal system. Accordingly, the Richards et al. device itself is embodied within a personal system (see Richards et al. at Figure 1, element 11 and corresponding text at col. 4, line 56 and col. 5, line 28). Such a personal system is clearly defined within the Richards et al. background and exemplified by the fact that "[o]ne practical embodiment of a personal system for handling data in this form is a set-top box." (see col. 1, lines 47-48) "Since the set-top box is intended as a consumer product there is a particular need to provide a device for performing the transmitting and receiving operations that is as inexpensive as possible. There are known integrated circuit systems that can perform the segmentation and re-assembly ("SAR") functions described above for use in a personal system." (see col. 1, line 66 through col. 2, line 5). Such a personal system performs a completely different function than that of the claimed invention. Thus, the Richards et al. device is not analogous at all to Applicants' instant invention.

Applicants therefore respectfully submit the present invention as claimed is not disclosed by Richards et al. nor are they obvious in view of Richards et al. in any combination with Burrows or Bell, Jr. et al. as neither Burrows nor Bell, Jr. et al. render the base reference applicable. Contrary to the Examiner's assertions, Applicants respectfully submit that no proper motivation to combine appears to exist. Further, any combination of the two references fails to result in the present claimed invention for the reasons mentioned above. Accordingly, Applicants submit that Claims 1-39 are allowable over any combination of the cited references.

#### Conclusion

No fee is believed due for this submission. However, Applicant authorizes the Commissioner to debit any required fee from Deposit Account No. 501593, in the name of Borden Ladner Gervais LLP. The Commissioner is further authorized to debit any additional amount required, and to credit any overpayment to the above-noted deposit account.

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It is submitted that this application is now in condition for allowance, and action to that end is respectfully requested.

Respectfully submitted,

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